

Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

MAY 28 2014
WILLIAM M. McCOOL, Clerk
By [Signature] Deputy

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

CR 14

165 RAJ

v.

INDICTMENT

JUAN GALLINAL,
JORDAN TRUXELL,
ALI LOVINS,
THOMAS BROOKE,
CRAIG GREER,
KEVIN KOGAN, and
JERRY DELMAN,

Defendants.

The Grand Jury charges that:

INTRODUCTION

At all times relevant to this Indictment:

A. Summary

1. From a time unknown through on or about August 7, 2012, the defendants, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, KEVIN KOGAN, and JERRY DELMAN, managed and operated an Internet pharmacy, through which the defendants distributed and conspired to distribute

1 controlled substances, primarily hydrocodone, phentermine, alprazolam, and codeine, to
2 customers who had no legitimate medical need for the drugs, and without a physical
3 examination and without establishing a doctor-patient relationship. During this period,
4 the conspiracy collected and laundered over \$9 million from the sale of controlled
5 substances by means of the Internet.

6 2. In many instances, the defendants and other members of the conspiracy
7 distributed the controlled substances to Internet customers even after members of the
8 conspiracy were informed that physicians had denied issuing a valid prescription to these
9 customers. In other instances, the defendants and other members of the conspiracy issued
10 prescriptions to Internet customers in the names of physicians who had never seen the
11 customers, and had no idea that prescriptions were being issued in their names. In still
12 other instances, when the conspiracy ran out of hydrocodone, a Schedule III controlled
13 substance requiring a prescription, the defendants and their co-conspirators encouraged
14 Internet customers to purchase codeine, a Schedule III controlled substance requiring a
15 separate prescription, as a replacement, even though the customers had no valid
16 prescriptions for codeine, and there was no legitimate medical purpose for codeine.

17 3. Using these and other means, the conspiracy shipped hundreds of thousands
18 of units of controlled substances for sale to hundreds of customers in the Western District
19 of Washington and elsewhere throughout the United States, and laundered the proceeds
20 of these sales through the bank accounts of a brick-and-mortar pharmacy to conceal the
21 source of the funds and to promote their conspiracy.

22 **B. The Defendants and Their Business Entities.**

23 4. Discount Pharmacy was a storefront pharmacy located in Pembroke Pines,
24 Florida. The pharmacy was registered with the DEA as a pharmacy on February 25,
25 2009.

26 5. Frontierpharmacies.com, feelingfattoday.com, dietpillmedhause.com, and
27 yourlifescrpts.com were websites through which Discount Pharmacy advertised
28 controlled substances for sale to the public, and sold products to consumers.

1 registered pharmacy that has obtained from the DEA a modification of its registration
2 authorizing it to operate as an online pharmacy. 21 U.S.C. §§ 841(h)(1) & (2)(A),
3 802(51)&(52)(A), and 823(f). The defendants JUAN GALLINAL, JORDAN
4 TRUXELL, ALI LOVINS, CRAIG GREER, THOMAS BROOKE, KEVIN KOGAN,
5 and JERRY DELMAN, and their co-conspirators operated an online pharmacy and used
6 said pharmacy to deliver, distribute, and dispense controlled substances. During the
7 course of this conspiracy, no member of the conspiracy obtained a modification of
8 Discount Pharmacy's DEA registration authorizing any member to operate as an online
9 pharmacy.

10 19. The Ryan Haight Act also requires that every online pharmacy display
11 certain information on its website. Each online pharmacy must post in a visible and clear
12 manner on the homepage of each Internet site it operates, or on a page directly linked
13 thereto in which the hyperlink is also visible and clear on the homepage, the following
14 information for each pharmacy that delivers, distributes, or dispenses controlled
15 substances pursuant to order made on, through, or on behalf of that website: (a) the name
16 and address of the pharmacy as it appears on the pharmacy's DEA certificate of
17 registration; (b) the pharmacy's telephone and e-mail address; (c) the name, professional
18 degree, and State's licensure of the pharmacist-in-charge, and a telephone number at
19 which the pharmacist-in-charge can be contacted; (d) a list of the States in which the
20 pharmacy is licensed to dispense controlled substances; (e) a certification that the
21 pharmacy is registered under this part to deliver, distribute, or dispense by means of the
22 Internet controlled substances; (f) the name, address, telephone number, professional
23 degree, and states of licensure of any practitioner who has a contractual relationship to
24 provide medical evaluations or issue prescriptions for controlled substances, through
25 referrals from the website or at the request of the owner or operator of the website, or any
26 employee or agent thereof; (g) the following statement, unless revised by the Attorney
27 General by regulation: "This online pharmacy will only dispense a controlled substance
28 to a person who has a valid prescription issued for a legitimate medical purpose based

1 6. JUAN GALLINAL is a former police officer who controlled and managed
2 Discount Pharmacy, frontierpharmacies.com, and their related websites and entities. At
3 all times, JUAN GALLINAL served as the leader of the drug trafficking organization and
4 the conspiracy.

5 a. JUAN GALLINAL created Discount Pharmacy and its associated
6 websites as a continuation of prior conspiracies to distribute drugs by mail or by means of
7 the Internet.

8 b. From approximately 2002 to 2004, JUAN GALLINAL, together and
9 with others known and unknown to the grand jury, operated RX Network of South
10 Florida and USA Prescription, Inc., which distributed drugs by means of the Internet.

11 c. In approximately 2003, JUAN GALLINAL, together and with others
12 known and unknown to the grand jury, operated an Internet pharmacy called I-Net
13 Management, located in Weston, Florida. Orders placed through I-Net Management
14 were filled by numerous pharmacies, including TFP Enterprise, LLC which was a
15 pharmacy in Greenville, South Carolina, run by THOMAS BROOKE. I-Net
16 Management paid for THOMAS BROOKE's salary and the pharmacy's rent and utilities.

17 d. From approximately 2006 until 2008, JUAN GALLINAL operated
18 an Internet pharmacy known as "Frontier Pharmacy" in Cooper City, Florida. In 2008,
19 Frontier Pharmacy was the subject of a search by the Food and Drug Administration
20 (FDA), after which Frontier Pharmacy ceased operations.

21 e. JUAN GALLINAL used many of the same employees from Frontier
22 Pharmacy, a similar computer database, and the same method of operations, to establish
23 Discount Pharmacy.

24 f. JUAN GALLINAL provided the initial start-up money for Discount
25 Pharmacy, and recruited other conspirators, most of whom had worked at Frontier
26 Pharmacy, to work at Discount Pharmacy. JUAN GALLINAL made virtually all
27 significant business decisions related to the conspiracy, and encouraged and promoted
28 unlawful activities of the conspiracy, including: (a) instructing co-conspirators to

1 fabricate the names of prescribing physicians on customer orders for controlled
2 substances that were ordered and delivered via the Internet; (b) instructing co-
3 conspirators to distribute controlled substances to customers regardless of medical need;
4 (c) encouraging members of the conspiracy to distribute controlled substances to
5 customers who JUAN GALLINAL believed or had reason to believe were addicted to
6 controlled substances, for the sole purpose of increasing the financial profits of the
7 conspiracy; (d) instructing co-conspirators to increase sales of controlled substances via
8 the Internet; (e) instructing co-conspirators to offer alternative controlled substances for
9 sale when the controlled substance ordered by the customer was out of stock; and
10 (f) developing email templates to be sent to customers to encourage refill orders.

11 7. JORDAN TRUXELL was the registered agent of Discount Pharmacy. He
12 managed and oversaw daily operations at Discount Pharmacy, including a customer
13 service department which communicated with customers via the Internet. He ensured
14 that orders placed by Internet customers were filled, and often directly assisted in filling
15 those orders. JORDAN TRUXELL previously worked for JUAN GALLINAL at
16 Frontier Pharmacy in Cooper City, Florida.

17 8. ALI LOVINS, a registered nurse, was an office administrator at Discount
18 Pharmacy. ALI LOVINS oversaw the daily operations of the conspiracy, including
19 participating in hiring decisions and other administrative decisions. ALI LOVINS also
20 oversaw the ordering from wholesalers and distributors of controlled substances, which
21 were then distributed to customers who had ordered the controlled substances via the
22 Internet without valid prescriptions. ALI LOVINS previously worked for JUAN
23 GALLINAL at Frontier Pharmacy in Cooper City, Florida.

24 9. THOMAS BROOKE was the bookkeeper for Discount Pharmacy.
25 THOMAS BROOKE maintained financial records, and paid the employees, wholesale
26 distributors, and debts owed by Discount Pharmacy in order to operate the conspiracy.
27 THOMAS BROOKE laundered the proceeds from the illegal Internet sales through the
28 accounts of Discount Pharmacy, used those proceeds to promote the conspiracy, and

1 transferred proceeds to other corporations which were under the control of the individual
2 members of the conspiracy. THOMAS BROOKE had prior experience working with
3 associates of JUAN GALLINAL in an Internet pharmacy, particularly through his
4 management of TFP Enterprises, LLC, in the District of South Carolina, between August
5 2003 and December 2003.

6 10. CRAIG GREER is a former police officer who mass-marketed the sale of
7 controlled substances for Discount Pharmacy, and sent e-mails soliciting refill orders
8 from Internet customers. CRAIG GREER also worked for JUAN GALLINAL at
9 Frontier Pharmacy in Cooper City, Florida.

10 11. KEVIN KOGAN provided the technical means by which the conspiracy
11 advertised and distributed controlled substances via the Internet. KEVIN KOGAN
12 managed and operated the customer databases, known at times as "Medhouse" and
13 "CPR," used by the conspiracy to process and track orders. KEVIN KOGAN had
14 provided the same technical support to JUAN GALLINAL at Frontier Pharmacy in
15 Cooper City, Florida. KEVIN KOGAN also designed and maintained websites through
16 which Discount Pharmacy advertised controlled substances for sale, sold products, and
17 received orders. To support the sale of controlled substances, KEVIN KOGAN created
18 promotional codes that were sent to customers to encourage them to place orders, track
19 the amount of controlled substances being ordered, assist with the creation of user names
20 and passwords used by the conspiracy to access databases and computers, and assisted
21 with day to day technical problems. As part of and in furtherance of the conspiracy, and
22 at the direction of JUAN GALLINAL, KEVIN KOGAN altered, destroyed, and
23 concealed evidence, specifically, the CPR and Medhouse databases in an effort to prevent
24 the Drug Enforcement Administration (DEA) from investigating the conspiracy.
25 KOGAN informed investigators that he had deleted the Medhouse database. However,
26 rather than deleting the Medhouse database, KOGAN had relocated the database to a
27 different location.

1 12. JERRY DELMAN was a pharmacist registered in the State of Florida, who
2 was the primary pharmacist on site at Discount Pharmacy. JERRY DELMAN was
3 responsible for ensuring the lawfulness and propriety of each prescription issued and
4 delivered by Discount Pharmacy. JERRY DELMAN failed to do so, thereby allowing
5 the conspiracy to distribute hundreds of thousands of units of controlled substances and
6 prescriptions that were not issued for a legitimate medical purpose by a practitioner
7 acting in the usual course of professional practice. JERRY DELMAN also permitted
8 members of the conspiracy to fill unlawful prescriptions, even though those members of
9 the conspiracy were wholly unqualified to do so, thereby causing the delivery of
10 controlled substances to customers who had no medical need for the controlled
11 substances.

12 **C. Law Related to Internet Sales of Controlled Substances.**

13 13. Under the Controlled Substances Act (CSA), the United States Drug
14 Enforcement Administration (DEA) regulates certain pharmaceutical drugs that are
15 classified as controlled substances because of their potential for abuse or dependence,
16 their accepted medical use, and their accepted safety for use under medical supervision.
17 Controlled substances are classified in five schedules. Schedule III controlled substances
18 have a potential for abuse and can lead to moderate or low physical dependence or high
19 psychological dependence. Hydrocodone and acetaminophen/codeine (Tylenol-4) are
20 Schedule III controlled substances. Schedule IV controlled substances have a lower
21 potential for abuse relative to the drugs in Schedule III, and abuse of such drugs may lead
22 to limited physical or psychological dependence. Phentermine and Alprazolam are
23 Schedule IV controlled substances.

24 14. Pursuant to Title 21, United States Code, Section 829, Schedule III and IV
25 controlled substances may only be lawfully distributed to individuals with a valid
26 prescription issued by a physician, or other authorized health practitioner, except when
27 dispensed directly to a patient by the practitioner (other than a pharmacist).
28

1 15. Pursuant to Title 21, United States Code, Section 822(a), no one may
2 lawfully dispense or distribute a controlled substance without first obtaining a DEA
3 registration.

4 16. In 2009, the Controlled Substances Act (CSA), 21 U.S.C. § 801, et seq.,
5 was amended by the Ryan Haight Online Pharmacy Consumer Protection Act, Pub. L.
6 No. 110-425 ("the Ryan Haight Act"). The provisions of the Ryan Haight Act took effect
7 on April 13, 2009.

8 17. Under the Ryan Haight Act, a valid prescription is defined as: "a
9 prescription that is issued for a legitimate medical purpose in the usual course of
10 professional practice by (i) a practitioner who has conducted at least 1 in-person medical
11 evaluation of the patient; or (ii) a covering practitioner." 21 U.S.C. § 829(e)(2)(A). The
12 phrase "in person medical evaluation" is defined as "a medical evaluation that is
13 conducted with the patient in the physical presence of the practitioner, without regard to
14 whether portions of the evaluation are conducted by other health professionals." 21
15 U.S.C. § 829(e)(2)(B)(i). The phrase "covering practitioner" is defined as a "practitioner
16 who conducts a medical evaluation (other than an in-person medical evaluation) at the
17 request of a practitioner who (i) has conducted at least one in-person medical evaluation
18 of the patient or an evaluation of the patient through the practice of telemedicine, within
19 the previous 24 months; and (ii) is temporarily unavailable to conduct the evaluation of
20 the patient." 21 U.S.C. § 829(e)(2)(C)(i)&(ii).

21 18. Under the Ryan Haight Act, the term "online pharmacy" is defined as: "A
22 person, entity, or Internet site, whether in the United States or abroad, that knowingly or
23 intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute,
24 or dispense, a controlled substance by means of the Internet." 21 U.S.C. § 802(52)(A).
25 The phrase, "deliver, distribute, or dispense by means of the Internet" means,
26 "respectively, any delivery, distribution, or dispensing of a controlled substance that is
27 caused or facilitated by means of the Internet." 21 U.S.C. § 802(51). Under the Ryan
28 Haight Act, no person may operate an online pharmacy unless such person is a DEA-

1 upon a medical relationship with a prescribing practitioner. This includes at least one
2 prior in-person medical evaluation or medical evaluation via telemedicine in accordance
3 with applicable requirements of Section 309.” *See* 21 U.S.C. § 831. During the course of
4 this conspiracy, no employee, member, or agent of the conspiracy obtained or posted any
5 of the above-language on any website operated by this conspiracy.

6 **D. Law Related to Misbranded Prescription Medications.**

7 20. The United States Food and Drug Administration (“FDA”) is the agency of
8 the United States charged with the responsibility of protecting the health and safety of the
9 American public by assuring, among other things, that drugs sold to humans are safe and
10 effective for their intended uses and bear labeling containing true and accurate
11 information. The FDA’s responsibilities include regulating the labels, distribution, and
12 manufacture of prescription drugs shipped or received in interstate commerce.

13 21. The FDA is also responsible for, among other things, enforcing the
14 provisions of the Federal Food, Drug, and Cosmetic Act (“FDCA”), Title 21, United
15 States Code, Section 301, et seq. Under the FDCA, the term “drug” includes articles
16 which are (1) recognized in the official United States Pharmacopeia or official National
17 Formulary or any supplement to any of them; (2) intended for use in the diagnosis, cure,
18 mitigation, treatment, or prevention of disease in man; or (3) intended to affect the
19 structure or any function of the body of man. 21 U.S.C. § 321(g)(1)(A) (B) and (C).

20 22. Some of the drugs regulated under the FDCA are “prescription drugs.”
21 “Prescription drugs” are those drugs, which, because of their toxicity or other potential
22 harmful effects, or the method of their use, or the collateral measures necessary to their
23 use, are not safe for use except under the supervision of a practitioner licensed by law to
24 administer such drugs, or which are required to be administered under the professional
25 supervision of a practitioner licensed by law to administer such drugs as a condition of
26 FDA approving any such drug to be placed on the market. 21 U.S.C. § 353(b)(1)(A) and
27 (B).
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23. The FDCA prohibits the introduction or delivery for introduction into interstate commerce, or the causing of such introduction or delivery, of any drug that is misbranded. 21 U.S.C. § 331(a). The act of dispensing prescription drugs without the prescription of a practitioner licensed by law to administer such drug is an act which causes the drug to become misbranded while held for sale. 21 U.S.C. § 353(b)(1).

24. A drug prescription is invalid under the FDCA unless it is issued in the usual course of professional practice and for a legitimate medical purpose. A valid prescription requires a bona fide physician-patient relationship. Factors that establish the existence of a bona fide physician-patient relationship, and thus a valid prescription, include whether a physician considered the actual needs of the patient, the quantity of the drug prescribed, the type of drug prescribed and for what purpose, the extent to which a physician supervised the issuance of the drug, and whether a physician adhered to prevailing medical standards when issuing the prescription, and acted in accordance with generally accepted practices.

E. The Object of the Conspiracies.

25. The object of the conspiracies was for the defendants and their co-conspirators to enrich themselves by unlawfully offering for sale and selling, controlled substances and prescription drugs, to customers in the Western District of Washington and throughout the United States via the Internet, regardless of medical need, regardless of the well-being of the customers, and regardless of whether the customers had valid prescriptions.

F. Manner and Means of the Conspiracies.

26. Beginning at a time unknown and continuing through August 7, 2012, the defendants, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, KEVIN KOGAN, and JERRY DELMAN, and their co-conspirators, conspired to illegally distribute hundreds of thousands of units of controlled substances, by means of the Internet, to customers located in the Western District of Washington and throughout the United States. The defendants and their co-conspirators

1 further conspired to conduct financial transactions with the proceeds of these Internet
2 sales with the intent to conceal the illegal source of these funds and with the intent to use
3 these funds to promote the distribution scheme.

4 27. It was a part of the conspiracy that the defendants and their co-conspirators
5 established a brick and mortar pharmacy, known as Discount Pharmacy of Pines, LLC, to
6 give the appearance of legitimacy to their Internet operations. Members of the
7 conspiracy, including ALI LOVINS and THOMAS BROOKE, opened and maintained
8 numerous bank accounts in the name of Discount Pharmacy.

9 28. It was a part of the conspiracy that JORDAN TRUXELL served as the
10 signatory on all business documents and founding documents of Discount Pharmacy, in
11 order to shield the true operator and manager of the conspiracy, JUAN GALLINAL, who
12 had been the subject of numerous prior law enforcement investigations for similar
13 conduct, including the FDA investigation at Frontier Pharmacy in Cooper City, Florida.

14 29. It was a part of the conspiracy that JUAN GALLINAL provided the start-
15 up financing for Discount Pharmacy, funneling funds through bank accounts operated by
16 JORDAN TRUXELL so as to hide the true source of the funds.

17 30. It was a part of the conspiracy that members of the conspiracy ordered
18 controlled substances from numerous licensed pharmaceutical wholesalers. To maintain
19 an appearance of legitimacy, ALI LOVINS and JORDAN TRUXELL made fraudulent
20 statements to the wholesalers, including that the pharmacy did not solicit orders via the
21 Internet, that the pharmacy only distributed to customers in Florida, and that the
22 pharmacy had no affiliation with any Internet sites.

23 31. It was a part of the conspiracy that members of the conspiracy, including
24 KEVIN KOGAN, created several websites, including frontierpharmacies.com,
25 feelingfattoday.com, dietpillmedhause.com, and yourlifescrpts.com, as the primary
26 websites through which the conspiracy advertised controlled substances for sale, and
27 received orders from customers.

1 32. It was a part of the conspiracy that JERRY DELMAN served as the
2 primary pharmacist on site. JERRY DELMAN provided limited or no oversight to
3 ensure the lawful nature of the Internet orders of controlled substances. In addition, due
4 to the volume of business the conspiracy was generating, on many occasions, JERRY
5 DELMAN and other pharmacists allowed members of the conspiracy who were neither
6 pharmacists nor pharmacy technicians to fill customer orders, leading many customers to
7 receive pills that they had not ordered, and causing other errors.

8 33. When an Internet customer submitted an order to members of the
9 conspiracy, a customer service representative working at Discount Pharmacy would
10 review the physician information that the customer had provided. From time to time, an
11 employee would send a facsimile to a physician's office in the state where the customer
12 resided, in an effort to make the prescription appear legitimate.

13 34. Members of the conspiracy commonly received a response from the
14 physician's office indicating that a prescription was not authorized, or received no
15 response from the physician's office. In such circumstances, a member of the conspiracy
16 would find the DEA number of a physician located in the same geographic region as the
17 customer. Members of the conspiracy then would list the new doctor as the physician
18 who had approved the prescription.

19 35. The defendants and other members of the conspiracy also delivered
20 controlled substances to Internet customers in prescription bottles bearing the names of
21 physicians who had never seen the customers, and who had no idea that prescriptions
22 were being issued in their names.

23 36. Frequently, the conspiracy did not have enough hydrocodone to fulfill its
24 Internet orders. In these instances, the defendants and their co-conspirators encouraged
25 Internet customers to purchase Tylenol 4 (containing codeine) as a replacement, even
26 though codeine is a controlled substance, requiring a prescription, and the customers had
27 no valid prescription for codeine. The defendants and their co-conspirators then sold and
28 shipped codeine to customers without a valid prescription.

1 37. Between February 25, 2009 and August 2012, the conspiracy shipped, or
2 held for shipment, the following amounts of controlled substances during the course of
3 the conspiracy:
4

5 Controlled Substance	6 Quantity Involved in the Conspiracy
7 Hydrocodone	719,460 tablets
8 Phentermine	467,600 tablets
9 Alprazolam (Xanax)	312,600 tablets
10 Codeine (Tylenol 4)	64,100 tablets

11 **Distributions into the Western District of Washington**

12 38. The conspiracy solicited orders from customers in the Western District of
13 Washington through emails, advertisements, and chat sessions. The conspiracy
14 distributed controlled substances to approximately 200 customers in the State of
15 Washington, most of whom resided in the Western District of Washington.
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39. The defendants and other members of the conspiracy unlawfully caused to be distributed controlled substances from Discount Pharmacy in Pembroke Pines, Florida, to addresses in the Western District of Washington, which had been purchased by undercover law enforcement officers who did not have a legitimate prescription, had not had a physical examination by a physician, and had not established a legitimate doctor-patient relationship. In all of these instances, the undercover officers ordered the controlled substances after listing a fictitious doctor's identity as the prescribing physician, after which, members of the conspiracy changed the name of the prescribing physician to someone who had never issued the prescription. Members of the conspiracy made fraudulent statements on the prescription bottles that were distributed to the law enforcement officers, giving the appearance of valid, legitimate prescriptions. This occurred on the following occasions:

Date and Location Received	Controlled Substance	Website Used to Order Controlled Substance	Fraudulent Statements
January 13, 2012 Vancouver, WA	30 tablets hydrocodone 10/325 mg	Frontierpharmacies.com	Prescribing doctor changed from "Ernest Anderson" to "M. Anderson"
February 2, 2012 Vancouver, WA	30 tablets Vicodin (hydrocodone) 10/325mg	Frontierpharmacies.com	Dr. M. Anderson listed as prescribing physician
February 23, 2012 Seattle, WA	30 tablets hydrocodone 7.5/750mg	Frontierpharmacies.com	Prescribing doctor changed from "David Edwards" to "W. Edwards"
February 23, 2012 Tukwila, WA	60 tablets acetaminophen/codeine (Tylenol 4)	Frontierpharmacies.com	Prescribing doctor changed from "Gregory Smith" to "B. Smith"
March 8, 2012 Vancouver, WA	30 tablets hydrocodone 7.5/750mg	Frontierpharmacies.com	Prescribing doctor changed from "Ernest Anderson" to "M. Anderson"
March 22, 2012 Tukwila, WA	60 tablets acetaminophen/codeine (Tylenol 4)	Frontierpharmacies.com	Prescribing doctor listed as "B. Smith"

Financial Operations of the Conspiracy

40. The defendants and their co-conspirators arranged for customers in the Western District of Washington, and elsewhere, to pay for the drugs, cash on delivery, typically in the form of a money order. The customers transmitted the money orders to UPS. The defendants and their co-conspirators arranged for UPS to then transfer the proceeds to a bank account belonging to Discount Pharmacy.

41. Members of the conspiracy continued to launder the proceeds of the Internet sales through Discount Pharmacy's bank accounts. By funneling the money through the bank accounts of a pharmacy that held itself out to be a legitimate business, the conspiracy concealed the illegal nature of the proceeds.

42. The proceeds of Internet sales were used to promote the conspiracy by funding the operation of both the brick and mortar pharmacy and the Internet business. For example, the proceeds were used to order additional controlled substances from wholesalers.

43. Certain members of the conspiracy received proceeds of the conspiracy through paychecks or wire transfers from Discount Pharmacy. In addition, certain leaders of the conspiracy received funds transferred from Discount Pharmacy to accounts belonging to corporations and/or limited liability corporations (LLC) associated with the defendants and their co-conspirators.

a. One of those business entities was Business Marketing Direct, Inc., a corporation that was under JUAN GALLINAL's direction and control. By laundering money from the drug transactions through Discount Pharmacy's accounts to Business Marketing Direct, Inc., GALLINAL concealed his involvement with the Frontier Pharmacy websites.

b. Similarly, JERRY DELMAN received funds from Discount Pharmacy through a corporation called JH 704 LLC.

c. Similarly, ALI LOVINS received "consulting fees" from Discount Pharmacy through a corporation called A&R E-Marketing Services, Inc.

44. Based upon the above means, and other means, the conspiracy generated and laundered approximately \$9,799,573.84 from the unlawful sale and distribution of controlled substances by means of the Internet, and for other than a legitimate medical purpose.

COUNT ONE
**(Conspiracy to Distribute Controlled Substances
 by Means of the Internet)**

45. The factual allegations contained in paragraphs 1 through 44 of this Indictment are re-alleged and incorporated by reference as if set forth in full herein.

46. Beginning at a time unknown and continuing until on or about August 7, 2012, in King County in the Western District of Washington, and elsewhere, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, KEVIN KOGAN, and JERRY DELMAN, knowingly and intentionally conspired and agreed, together and with others known and unknown to the grand jury, to distribute and dispense controlled substances, including: hydrocodone (a Schedule III controlled substance), codeine (a Schedule III controlled substance), phentermine (a Schedule IV controlled substance), and alprazolam (a Schedule IV controlled substance), by means of the Internet under the following circumstances:

- a. by an online pharmacy that was not validly registered with the DEA with a modified registration authorizing such activity;
- b. by an online pharmacy that did not display on its website the information required by 21 U.S.C. § 831; and
- c. which controlled substances had been ordered by customers residing in the Western District of Washington and elsewhere, via the Internet, without valid prescription and not for a legitimate medical purpose.

All in violation of Title 21, United States Code, Sections 823(f), 841(h)(1), 841(b)(1)(E), and 846.

COUNT TWO

(Conspiracy to Distribute Controlled Substances)

47. The factual allegations contained in paragraphs 1 through 44 of this Indictment are re-alleged and incorporated by reference as if set forth in full herein.

48. Beginning at a time unknown and continuing until on or about August 7, 2012, in King County in the Western District of Washington, and elsewhere, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, KEVIN KOGAN, and JERRY DELMAN, knowingly and intentionally conspired and agreed, together and with others known and unknown to the grand jury, to distribute and dispense controlled substances, including: hydrocodone (a Schedule III controlled substance), codeine (a Schedule III controlled substance), phentermine (a Schedule IV controlled substance), and alprazolam (a Schedule IV controlled substance), for other than a legitimate medical purpose and not in the usual course of professional practice, to individuals in the Western District of Washington and elsewhere.

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E), and 846.

COUNT THREE

**(Conspiracy to Introduce Misbranded Prescription Drugs
Into Interstate Commerce)**

49. The factual allegations contained in paragraphs 1 through 44 of this Indictment are re-alleged and incorporated by reference as if set forth in full herein.

50. Beginning at a time unknown and continuing until on or about August 7, 2012, in King County in the Western District of Washington, and elsewhere, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, KEVIN KOGAN, and JERRY DELMAN, conspired and agreed, together and with others known and unknown to the grand jury, to commit an offense against the United States, that is, to introduce prescription drugs into interstate commerce from the State of Florida, to various locations in the United States, including the Western District

1 of Washington, with the intent to defraud and mislead, including the prescription drugs
 2 hydrocodone, phentermine, alprazolam, and codeine, and their generic equivalents, which
 3 were misbranded within the meaning of Title 21, United States Code, Section 353(b)(1),
 4 in that the prescription drugs were dispensed without the prescription of a practitioner
 5 licensed by law to administer such drug, and did so while the drugs were held for sale
 6 after being shipped in interstate commerce, an act which resulted in the drugs being
 7 misbranded.

8 **Manner and Means**

9 51. The manner and means of the conspiracy are set forth in Paragraphs 26
 10 through 44 of this Indictment.

11 **Overt Acts**

12 52. In furtherance of the conspiracy and to effect the objects thereof,
 13 defendants and their co-conspirators, committed one or more of the following overt acts.

- 14 (1) They opened Discount Pharmacy and registered the pharmacy with the
 15 DEA on or about February 25, 2009.
- 16 (2) They caused to be distributed into the Western District of Washington, the
 17 specific controlled substances alleged in Paragraph 39, above, with each
 18 distribution constituting a specific overt act in furtherance of this
 19 conspiracy.

20 All in violation of Title 21, United States Code, Sections 331(a), 333(a)(2), and
 21 353(b)(1); and Title 18, United States Code, Section 2.

22 **COUNT FOUR** 23 **(Conspiracy to Commit Money Laundering)**

24 53. The factual allegations contained in paragraphs 1 through 44 of this
 25 Indictment are re-alleged and incorporated by reference as if set forth in full herein.

26 54. Beginning at a time unknown and continuing until on or about August 7,
 27 2012, in King County in the Western District of Washington, and elsewhere, JUAN
 28 GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, and JERRY

1 DELMAN, and others known and unknown, unlawfully and knowingly combined,
2 conspired, confederated and agreed together and with each other to commit certain
3 money laundering offenses under Title 18 United States Code, Section 1956, as follows:

4 55. The defendants did conduct and attempt to conduct financial transactions,
5 that is: transactions involving the movement of funds by wire and other means affecting
6 interstate and foreign commerce, and transactions involving the use of a financial
7 institution which is engaged in and affects interstate and foreign commerce, which in fact
8 involved the proceeds of specified unlawful activity, that is, conspiracy to distribute
9 controlled substances and misbranded prescription drugs, in violation of Title 21, United
10 States Code, Sections 841(a)(1), 841(h)(1), 331(a), 333(a)(2), 353(b)(1), and 846, and
11 Title 18, United States Code, Section 2, knowing that the property involved in the
12 financial transactions represented the proceeds of some form of unlawful activity –

- 13 a. with the intent to promote the carrying on of the specified unlawful
14 activity, in violation of Title 18, United States Code, Section
15 1956(a)(1)(A)(i); and
16 b. knowing that the transactions were designed in whole or in part to
17 conceal and disguise the nature, the location, the source, the
18 ownership, and the control of the proceeds of the specified unlawful
19 activity, in violation of Title 18, United States Code, Section
20 1956(a)(1)(B)(i).

21 56. The grand jury further alleges that the offense was committed during and in
22 furtherance of the conspiracies charged in Counts 1, 2, and 3, above.

23 All in violation of Title 18, United States Code, Section 1956(a)(1) and (h).
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28

COUNT FIVE**(Destruction, Alteration, and Concealment of Records)**

57. The factual allegations contained in paragraphs 1 through 44 of this Indictment are re-alleged and incorporated by reference as if set forth in full herein.

58. During a time period between June 20, 2012 and August 7, 2012, in King County in the Western District of Washington, and elsewhere, JUAN GALLINAL and KEVIN KOGAN knowingly altered, destroyed, mutilated, concealed, covered up, and falsified a record, document, and tangible object, that is, the "CPR" and "Medhausa" databases, and did aid and abet another in doing so, with the intent to impede, obstruct, and influence the investigation and proper administration of the investigation of Discount Pharmacy, a matter that the defendants knew and contemplated was within the jurisdiction of any department or agency of the United States, that is, the Drug Enforcement Administration.

All in violation of Title 18, United States Code, Sections 1519 and 2.

FORFEITURE ALLEGATIONS**Conspiracy to Distribute Controlled Substances**

59. The allegations contained in Counts 1 and 2 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

60. Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Sections 841(h)(1), 841(b)(1)(E), and 846, Conspiracy to Distribute Controlled Substances by Means of the Internet, and Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E), and 846, Conspiracy to Distribute Controlled Substances, the defendants, JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, CRAIG GREER, JERRY DELMAN, and KEVIN KOGAN, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result

of such offense, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense. The property to be forfeited includes, but is not limited to, the following:

- a. A sum of money representing the proceeds obtained as a result of the offense alleged in Count 1 above; and
- b. A sum of money representing the proceeds obtained as a result of the offense alleged in Count 2 above.

Conspiracy to Commit Money Laundering

61. The allegations contained in Count 4 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(1).

62. As a consequence of the conviction of JUAN GALLINAL, JORDAN TRUXELL, ALI LOVINS, THOMAS BROOKE, and JERRY DELMAN, of the felony money laundering offense alleged in Count 4, above, pursuant to Title 18, United States Code, Section 982(a)(1), any and all property, real and personal, involved in the charged offenses and all property traceable to such property, including all money or other property that was the subject of each financial transaction that the defendants conspired to conduct or did conduct in violation of Title 18, United States Code, Sections 1956, and all property used in any manner or part to commit or to facilitate the commission of such violation is subject to forfeiture to the United States, including but not limited to a sum of money representing the proceeds obtained as a result of the offense alleged in Count 4 above.

Substitute Assets

63. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;

- d. has been diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,


the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States code 853(p), as incorporated by Title 18, United States Code, section 982(b)(1) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

DATED: 5-28-14
*Signature redacted pursuant to the policy
Of the Judicial Conference of the United States*

FOREPERSON


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ANDREW FRIEDMAN
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MIKE LANG
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